

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 807 (Senator Kramer)
Education, Energy, and the Environment

Environment - Local Building Energy Performance Standards - Authorization

This bill authorizes a county to develop and adopt local building energy performance standards (LBEPS) that are at least as stringent as the standards adopted by the Maryland Department of the Environment (MDE) under the Climate Solutions Now Act (CSNA) if the local standards are approved by MDE. The bill (1) establishes conditions under which MDE may approve LBEPS; (2) authorizes a county to take appropriate actions to enforce approved LBEPS, including establishing alternative compliance pathways (ACPs) for complying with energy use intensity (EUI) and direct greenhouse gas (GHG) emissions requirements; and (3) requires a county administering LBEPS to submit to MDE any emissions data reported to the county in accordance with LBEPS. A covered building that is subject to LBEPS is not required to comply with the statewide building energy performance standards (BEPS) established by MDE.

Fiscal Summary

State Effect: State expenditures may increase for affected State-owned buildings to comply with any applicable LBEPS. MDE can implement the bill with existing budgeted resources. Special fund revenues for MDE may decrease beginning in FY 2031 from foregone ACP fees, as discussed below. State revenues are otherwise not anticipated to be materially affected.

Local Effect: For any county that adopts LBEPS pursuant to the bill's authority, county revenues increase, potentially significantly, from the collection of ACP fees/penalties. County expenditures may also increase to develop and enforce LBEPS. Local expenditures may increase for affected locally owned buildings to comply with any applicable LBEPS.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: MDE may approve LBEPS if the standards are (1) inclusive of or more stringent than the statewide BEPS developed and adopted by MDE under CSNA or (2) designed to achieve, by 2040 and through improvements to covered buildings in the aggregate, greater energy and GHG reduction benefits than BEPS.

A county administering LBEPS approved by MDE may take appropriate actions to enforce the standards, including (1) establishing ACPs for complying with EUI and direct GHG emissions requirements established in the standards and (2) imposing and collecting ACP fees and penalties in the same amount and manner allowed by MDE.

Current Law:

Climate Solutions Now Act – In General

CSNA (Chapter 38 of 2022) made broad changes to the State’s approach to reducing statewide GHG emissions and addressing climate change. Among other things, CSNA accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

Building Energy Performance Standards

To accomplish these goals, among other things, CSNA requires MDE to develop BEPS for covered buildings that achieve (1) a 20% reduction in net direct GHG emissions by January 1, 2030, as compared with 2025 levels for average buildings of similar construction and (2) net-zero direct GHG emissions by January 1, 2040. To facilitate the development of these BEPS, MDE must require “covered building” owners to measure and report direct emissions data to the department each year beginning in 2025. The provision requiring MDE to set a standard that achieves net-zero direct GHG emissions for covered buildings terminates December 31, 2029.

“Covered building” means a building that (1) is a commercial or multifamily residential building in the State or is owned by the State and (2) has a gross floor area of 35,000 square feet or more (excluding the parking garage area). “Covered building” does not include (1) a building designated as a historic property under federal, State, or local law; (2) a public or nonpublic elementary or secondary school building; (3) a manufacturing building; or (4) an agricultural building.

Implementing Regulations

CSNA also required MDE to adopt regulations to implement BEPS by June 1, 2023. The regulations must meet several specified requirements. Among other things, the regulations must (1) include EUI targets by building type, as specified; (2) provide maximum flexibility to the owners of covered buildings; (3) include an ACP allowing the owner to pay a fee for GHG emissions attributable to the building's failure to meet direct GHG emissions reduction targets; and (4) to the extent authorized by law, include financial incentives recommended by the Building Energy Transition Implementation Task Force.

MDE initiated the regulatory promulgation process to implement the required BEPS regulations in December 2023, but ultimately withdrew the regulations in December 2024. MDE finalized a second round of BEPS regulations that took effect December 23, 2024. The regulations establish BEPS and related benchmarking and reporting requirements under COMAR 26.28. However, the regulations do not include EUI standards. Under the regulations, beginning in calendar 2025, covered building owners are required to report benchmarking information for the previous calendar year by June 1.

The fiscal 2025 budget as enacted included language restricting funding for the final development and submission of EUI targets and standards regulations until MDE submits, among other things, a report on EUI costs and alternatives to EUI for meeting GHG targets.

Montgomery County Building Energy Performance Standards

The Montgomery County Council adopted county BEPS in February 2025. The Montgomery County BEPS cover most commercial and multifamily buildings that are at least 25,000 gross square feet. Covered buildings are grouped by size and type. The grouping dictates when buildings begin benchmarking, their baseline periods, and the interim and final performance standard deadlines. The county has information about the Montgomery County BEPS on its [website](#).

State Fiscal Effect:

Maryland Department of the Environment

MDE advises that it can handle any increase in workload resulting from reviewing and approving LBEPS with existing budgeted resources. MDE notes that Montgomery County recently adopted county BEPS – independent of CSNA – and anticipates that, under the bill, Montgomery County will apply for LBEPS approval from MDE.

As noted above, pursuant to CSNA and its implementing regulations, under BEPS, beginning in calendar 2030, owners of covered buildings may come into compliance with net direct emissions standards by paying an ACP fee for GHG emissions in excess of the standards. Under the bill, to the extent that MDE approves any LBEPS, special fund revenues for the Maryland Clean Air Fund likely decrease from foregone ACP fees that would be paid to counties with approved LBEPS instead. Any such impact occurs as early as fiscal 2031, when, under current law, ACP revenue is anticipated to begin accruing. However, a reliable estimate of any foregone ACP revenue cannot be made at this time, as the extent to which any LBEPS are approved, the counties in which they are adopted, and the timing of the approval and adoption of any LBEPS are unknown.

State Agencies as Owners of Affected Buildings

For a discussion of the potential impacts on State agencies as owners of affected buildings, see the Additional Comments section below.

Local Fiscal Effect: For any county that adopts LBEPS, local revenues from ACP fees and penalties increase, potentially significantly (assuming the county establishes such fees and penalties). As noted above, due to the deadlines established in statute and regulation, MDE does not anticipate beginning to collect ACP fees from covered building owners under BEPS until at least fiscal 2031. Under the bill, it is not clear whether local ACP fees and penalties may be imposed and collected before then. (The bill authorizes a county with an approved LBEPS to impose and collect ACP fees and penalties *in the same amount and manner allowed by MDE* but does not address the timing of the imposition of such fees and penalties.) Ultimately, the collection of any ACP fees and penalties under an LBEPS depends on the specifics of the LBEPS and cannot be predicted in advance.

Any county that adopts LBEPS likely incurs costs to develop and implement their LBEPS. However, the development and adoption of LBPES under the bill is voluntary. In addition, in at least some counties, such as Montgomery County, the development of county standards is occurring or may occur even in the absence of the bill.

For a discussion of the potential impacts on local governments as owners of affected buildings, see the Additional Comments section below.

Small Business Effect: For a discussion of the potential impacts on small businesses as owners of affected buildings, see the Additional Comments section below.

Additional Comments (Effect on Building Owners): Because the standards established under LBEPS must be at least as stringent as BEPS, affected building owners (which include the State, local governments, and small businesses) in affected counties may be subject to more stringent standards, which could mean higher compliance costs. The

implementation of statewide BEPS has begun, and by calendar 2030, covered building owners whose buildings do not already meet BEPS must implement electrification measures and/or energy efficiency measures or pay ACP fees in order to comply with the interim GHG emissions standards established under the regulations. Thus, covered building owners across that State have begun planning and, in some cases, making decisions and implementing measures to comply with BEPS. For any affected building owners in counties that adopt LBEPS under the bill, there may be additional costs to update plans or implement different measures to meet the (potentially more stringent) local standards. In addition, it is possible that a county might establish earlier deadlines for compliance (including the payment of ACP fees and penalties), which could lead to higher near-term costs for owners. In addition, LBEPS may apply to more building owners than those included in the definition of “covered building” under BEPS.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, and Montgomery counties; Maryland Association of Counties; City of Laurel; University System of Maryland; St. Mary’s College of Maryland; Interagency Commission on School Construction; Maryland Department of the Environment; Department of General Services; Maryland Department of Labor; Maryland Stadium Authority; Department of Legislative Services

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